APPENDIX

District of Columbia Code (1951 Ed.).

Title 11, Sec. 306 (Jurisdiction of United States District Court for the District of Columbia)

> "Said court (except as otherwise provided in this title) shall have cognizance of all crimes and offenses committed within said district and of all cases in law and equity between parties, both or either of which shall be resident or be found within said district and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising or accruing under the laws of the United States."

Act of October 15, 1914, c. 323, Sec. 4, 38 Stat. 731, 15 U.S.C.A. Sec. 15 (Clayton Act)

> "Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee."

Opinion of the Court of Appeals

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14,362

ORBO THEATRE CORPORATION, APPELLANT

v.

LOEW'S INCORPORATED, *et al.*, APPELLEES

Appeal from the United States District Court for the District of Columbia

Decided November 13, 1958

Mr. Joseph G. Dooley for appellant.

Mr. John F. Caskey, with whom *Messrs. William R. Glendon* and *Stanley Godofsky* were on the brief, for appellees. *Mr. Joseph T. Childs* also entered an appearance for appellees.

Before JACKSON, a Senior Judge of the United States Judge of the United States Court of Customs and Patent Appeals, sitting by designation, and BAZELON (presiding) and BASTIAN, Circuit Judges.

PER CURIAM: This is an appeal from a judgment of the District Court dismissing plaintiff's (appellant's) complaint. The action was for an injunction and treble damages, based upon an alleged violation of the antitrust laws.

Briefly stated, plaintiff asserted that defendants (appellees) had entered into a mutually devised plan or conspiracy to hold back the film availability of plaintiff's motion picture theatre to an absolute minimum of twenty-one days; that no clearance over the theatre was justified since it was claimed there was no substantial competition between first-run houses and plaintiff's theatre; and that,

even if there were substantial competition between the first-run theatres and plaintiff's theatre, the long delayed availability was wholly unjustified.

The case was tried before the District Court without a jury. That court directed that the issue of liability be heard first, and announced that, if the plaintiff prevailed, the trial would be resumed for the purpose of ascertaining the amount of damages, if any. After the conclusion of the hearing on the issue of liability, the District Court took the case under advisement, and thereafter filed its opinion[1] and entered judgment dismissing the complaint on the merits and with prejudice.

On examination of the record, we find no reason to disturb the trial court's ruling on the question of evidence complained of by plaintiff or the result reached by the trial judge.

Affirmed

Opinion of the United States District Court for the District of Columbia

(Reproduced in Joint Appendix, filed in Court of Appeals, at pages 63-77.)

[1] 156 F. Supp. 770 (1957). Judge Holtzoff's opinion constitutes the District Court's findings of fact and conclusion of law.